

TESTIMONY OF

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On

“THE COMMUNITY REINVESTMENT ACT: THIRTY YEARS OF
ACCOMPLISHMENTS, BUT CHALLENGES REMAIN”

Before the

COMMITTEE ON FINANCIAL SERVICES

UNITED STATES HOUSE OF REPRESENTATIVES

February 13, 2008, 10:00 a.m.

Room 2128, Rayburn House Office Building

Good morning, Chairman Frank, ranking member Bachus, and distinguished members of the committee. I am pleased to be here today on behalf of the Connecticut Department of Banking to discuss the Community Reinvestment Act (CRA), which marks its 18th anniversary in our state this year. My testimony will discuss the administration of our CRA program and the application of CRA to both banks and credit unions in Connecticut. I will also highlight some CRA initiatives of other states.

I also appear today as a member of the Conference of State Bank Supervisors (CSBS). CSBS is the professional association of state officials responsible for chartering, supervising and regulating the nation's over 6,000 state-chartered commercial and savings banks, and almost 400 state-licensed foreign banking offices nationwide. For more than a century, CSBS has given state bank supervisors a national forum to coordinate, communicate, advocate and educate on behalf of state bank regulation.

Connecticut is also a member of the National Association of State Credit Union Supervisors (NASCUS). NASCUS is a professional association of State credit union regulators representing 48 state regulators throughout the nation, including Puerto Rico.

The Department of Banking is a state government agency responsible for the regulation of financial institutions and related entities. The Connecticut Department of Banking (the Department) is responsible for the regulation and examination of financial institutions, including 41 state chartered domestic banks with total assets of \$28.9 billion and 38 state chartered credit unions with total assets of \$2.6 billion. As Banking Commissioner I am charged with administering the banking and credit union laws of the state as well as the laws regarding securities, tender offers and business opportunities. I also administer the Truth-in-Lending Act and other consumer credit laws. The Department responds to consumer inquiries, investigates complaints and provides consumer financial and investor education through its outreach program.

The Department's mission is to protect users of financial services from unlawful or improper practices by requiring that regulated entities and individuals adhere to the law; assuring the safety and soundness of state chartered banks and credit unions; educating and communicating with the public and other stakeholders; and promoting cost-efficient and effective regulation.

The Community Reinvestment Act, not only in Connecticut but nationwide, has provided access to lending and investment programs just by highlighting a need for community investment and initiatives. CRA encourages financial institutions to seek out lending and investment programs that promote community development lending and investing. Various state and federal affordable housing programs are good examples of such lending and investment opportunities for banks.

As the Connecticut Banking Commissioner, I am pleased to discuss the CRA program and initiatives undertaken within my state.

CRA Program in Connecticut

Connecticut enacted a state CRA law [Chapter 664a Part II, Section 36a-30 through 36a-36] on July 1, 1990, that established general requirements for Connecticut banks to reinvest in their communities. The law authorized the Banking Commissioner to assess a bank's record of helping to meet the credit needs of its local communities, including low and moderate-income neighborhoods, consistent with the safe and sound operation of the bank. The state statute references federal CRA provisions including areas of collecting and reporting loan data, CRA disclosure statements, maintaining a public file and examination assessment factors. Beyond the federal CRA public notice requirements, each Connecticut bank must also publish a State of Connecticut Community Reinvestment Notice announcing public access to the bank's performance evaluations and clearly stating where to send written comments to the Banking Commissioner.

Effective July 1, 2001, Connecticut enacted a state CRA law [Chapter 664a Part II, Section 36a-37 through 36a-37e] that set similar requirements for Connecticut State Chartered Community Credit Unions. A Community Credit Union means a Connecticut credit union that has \$10 million or more in total assets, the membership of which is limited to persons within a well-defined community, neighborhood or rural district.

Connecticut state chartered banks have had a long standing record of compliance with the State and Federal Community Reinvestment Act (CRA), as demonstrated by the number of "Outstanding" and "Satisfactory" ratings assigned the banks during on-site performance evaluations. Since

1999, no Connecticut state chartered bank has received a CRA rating below “Satisfactory.”

In February 2005, then-Banking Commissioner John P. Burke decided to reduce the banks’ burden of on-site CRA examinations by establishing an off-site program at the state level. Under this off-site program, we have created a CRA profile on each of our banks. We require each bank to update their CRA profile on an annual basis, reporting such items as changes to the assessment area, products and services offered, or other community development or investment initiatives. We encourage our banks to include any other relevant data that describes expanded community activities within the defined assessment area.

We also receive a copy of the bank’s federal CRA examination. We review this information and incorporate it into the bank’s CRA profile, along with additional statistical analysis utilizing Home Mortgage Disclosure Act (HMDA) data and CRA software that indicates where the bank is lending. This software tool provides analysis of lending statistics by bank, tract, town, county, Metropolitan Statistical Area (MSA), state and assessment area. The software allows examiners to map assessment areas for reasonability, demographics, and location of low- and moderate-income census tracts. Examiners also use valuable peer information to compare bank performance with the marketplace.

We have found this process very effective in keeping CRA at the forefront and helping the Department with timely processing of various applications that call for consideration of the bank’s CRA compliance. Pursuant to Section 36a-32(3)(c), the Banking Commissioner shall consider, but not be limited to, the bank’s record of performance when considering an application for the establishment of a branch, relocation of a main office or branch office, or a merger or consolidation with or acquisition of assets or stock or assumption of liabilities of another bank. A bank’s record of performance in helping meet the credit needs of a community may be the basis for denying or conditioning such application.

Implementing an off-site CRA monitoring system to assess the performance of state-chartered institutions has afforded the opportunity to reduce regulatory burden, while keeping us abreast of the lending performance and trends of our community banks between on-site examinations. We have found the off-site program provides more opportunity to interact with the

bank's CRA officer through the annual submission of data, updates and assessments during the application process, and periodic contact. Implementation of the off-site program does not restrict the Banking Commissioner's authority to conduct an on-site examination, if deemed necessary.

Department of Banking staff must include an assessment of the institution's CRA compliance in the evaluation of branch, merger or acquisition applications we process. In assessing the bank's CRA efforts, examiners review the institution's CRA policy, the institution's CRA statement & goals, and the internal CRA program assessment, the CRA plan (if required to be submitted), the CRA notice and the adequacy of the assessment. Connecticut law requires that any bank with a CRA rating other than "Outstanding" must submit a CRA plan (Plan) and publish a notice of the Plan's availability for public comment for a period of 30 days. Very rarely, if ever, have we received a comment on a filed CRA Plan.

As I mentioned, Connecticut established a CRA requirement for Connecticut state chartered community credit unions in July 2001. While federal credit unions are not subject to CRA, two states, including Connecticut and Massachusetts, have implemented CRA programs for credit unions. Under Connecticut's program, the credit union is examined on-site for CRA compliance. The Department makes a written evaluation of the credit union's CRA performance, with three major areas: (1) a statement of the Commissioner's assessment; (2) a discussion of the facts of the assessment; and (3) an assigned rating and description of the rating. Connecticut uses the same rating scale of "Outstanding," "Satisfactory," "Needs to Improve," and "Substantial Noncompliance" for both banks and credit unions.

Community credit unions subject to CRA requirements in Connecticut are assessed on such factors as: the credit union's record of helping to meet the credit needs of its community through qualified investments; the availability and effectiveness of its systems in delivering retail credit union services and the extent and innovativeness of community development services; the loan to share ratio given the credit unions size and financial condition; the percentage of total loans; the record of lending and lending-related activities to borrowers of different income levels and businesses and farms of different sizes; the geographic distribution of loans; any action taken in response to written complaints related to community reinvestment performance; any efforts to work with delinquent residential mortgage customers who are

unemployed or underemployed to facilitate a resolution of the delinquency; and any written comments received by the Banking Commissioner.

Accountability to the community is an important aspect of CRA's mission; thus, Connecticut posts CRA ratings for both the banks and credit unions on our website. Pursuant to Connecticut statutes [Sections 36a-33 and 36a-37e], the Banking Commissioner must prepare and submit a report to the State Treasurer of the list of banks and credit unions that have received a rating of needs to improve or of substantial noncompliance in connection with CRA. No bank or credit union included on such list may receive public deposits.

CRA Initiatives in Other States

The Community Reinvestment Act has been an example of federalism at work, with six states¹ plus the District of Columbia enacting their own Community Reinvestment Acts at the state level. Some states have gone beyond in the provisions of Federal law, expanding the application of their CRA statutes, what qualifies for CRA credit, or how CRA is enforced. Other states have simply mirrored the Federal statute, giving them the opportunity to enforce the Federal statute through their own laws. Examples of states that have passed CRA laws are:

Massachusetts

Massachusetts enacted a state Community Reinvestment Act statute (Massachusetts General Laws chapter 167, section 14, with implementing regulations at 209 CMR 46.00 *et seq.*) in 1982

The law has always been applied to both state-chartered banks and all state-chartered credit unions, regardless of their common bond. The regulations are adapted to address the common bond of certain credit unions.

Massachusetts law differs from federal law in that Massachusetts has a five-tiered rating system. State law includes a rating of "High Satisfactory" that

¹ In addition to Connecticut the following states have their own CRA laws: Massachusetts (G.L.c. 167, s.14), New York (NYBL 28-b), Rhode Island (R.I. Gen. Laws Section 19-9-4), Washington (Chapter 30.60.RCW) West Virginia (Section 31A-8B-1, et Seq.)

is not part of federal law; a Massachusetts state-chartered institution may be rated “Outstanding,” “High Satisfactory,” “Satisfactory,” “Needs to Improve” or “Substantial Noncompliance”.

The Division may consider a state-chartered bank’s or state-chartered credit union’s CRA rating as the basis of a denial of various applications requiring the Division’s approval. Alternatively, a CRA rating of “Satisfactory” or better is one of the criteria for additional powers for state-chartered banks and state-chartered credit unions under approvals under the bank parity and credit union parity regulations at 209 CMR 47.00 *et seq.* and 209 CMR 50.00 *et seq.*, respectively. In addition, the Division has an alternative CRA examination procedure for state-chartered banks and state-chartered credit unions with a CRA rating of “Outstanding” or “High Satisfactory.”

The Massachusetts CRA statute was also the model for recently enacted legislation, Chapter 206 of the Acts of 2007, which requires “CRA-type” analyses during examination of residential mortgage lenders that have made 50 or more residential mortgage loans in the previous calendar year.

New York

New York’s Section 28-b is the statutory authority for Part 76, which is almost identical to the Federal CRA regulation. While Part 76 closely mirrors the Federal regulation’s focus on performance, it incorporates the 12 assessment factors listed in Section 28-b. These factors include process factors such as ascertainment of community credit needs, marketing and board of directors’ involvement in formulating CRA related policies and monitoring performance. The Federal CRA regulation now focuses on performance and no longer mentions the 12 factors.

A banking institution subject to CRA evaluation by the New York State Banking Department is defined as a “New York State-chartered commercial bank, trust company, savings bank, savings and loan association or FDIC insured branch of a foreign bank.”

New York regulations include a fifth type of community development activity, not included in the Federal regulation: activities that seek to prevent defaults and/or foreclosures in loans classified as “supporting affordable housing or economic development.”

These CRA statutes and regulations are part of New York's broader recognition that a safe and sound bank is one that treats communities and individual customers fairly, and that responsible lending practices do not discriminate by race, creed or neighborhood.

Washington State

In 1985, the Washington State Legislature enacted two identical statutes, entitled "Community Credit Needs." One affects Washington State-chartered commercial banks (Ch. 30.60 RCW) and the other affects Washington State-chartered mutual savings banks and stock savings banks (Ch. 32.40 RCW). The statutes are the equivalent of "state CRA" statutes, but they essentially permit the Division of Banks to defer to the FDIC on CRA examinations. However, they obligate the Washington State Department of Financial Institutions (rather than just applicable federal banking regulators, e.g., the Fed, FDIC, OCC or OTS) to consider the CRA ratings of applicants with regard to (1) mergers by a bank or bank holding company of a Washington State-chartered bank or savings bank, (2) acquisition of 5% or more of the stock of a Washington State-chartered bank or savings bank, and (3) branching. The Washington State Department of Financial Institutions has relied upon the FDIC's CRA examination process and ratings in fulfilling Chapter 30.60 RCW and Chapter 32.40 RCW. The Washington State Department of Financial Institutions has considered the CRA ratings of affected institutions in making its decision to approve, disapprove or condition the approval of a merger, stock acquisition or branching application, several times since the enactment of these statutes.

Conclusion

The Community Reinvestment Act has unquestionably made an impact on banks and the communities they serve. CRA requirements are embedded in the chartering of financial institutions; considered in the approval, denial or conditioning of applications for such activities as branching, consolidation or acquisitions; and considered with other expansion initiatives. For example, a bank's CRA profile is an essential element of assessing the value of any new product or service being offered to the bank's customers.

If Congress or the federal regulators are considering changes to CRA statutes, regulations or guidelines, these changes should include a consideration of fewer restrictions on the type of or dollar thresholds for

investments. We should continue to encourage and foster community-focused lending and investing, a building block in the foundation of community banking.

Thank you for your time this morning, and for inviting me to be here with you today to celebrate 30 years of accomplishments under the Community Reinvestment Act. I would be pleased to answer any questions that you have.